



THE COMMONWEALTH OF MASSACHUSETTS
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May 11, 2022

Shonda D. Green, Secretary
Department of Telecommunications and Cable
1000 Washington Street, Suite 600
Boston, MA 02118-6500

Re: *Petition of the State 911 Department for Approval of Fiscal Year ("FY") 2022
Expenditures, FY 2023 Development Grant Amount, FY Incentive Grant Regional PSAP
Three to Nine Communities Category Percentage, and FY 2023 Incentive Grant Regional
Emergency Communications Center Category Percentage, D.T.C. 22-1*

Dear Secretary Green:

Enclosed please find the Attorney General's Comments on the State 911 Department's
Petition and Certificate of Service in the above-captioned docket. Please file according to your
usual practice. Thank you for your assistance in this matter.

Sincerely,

/s/ Jonathan F. Dinerstein

Jonathan F. Dinerstein
Assistant Attorney General

Enclosures

cc: William Bendetson, Presiding Officer
Service List

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE**

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PETITION OF THE STATE 911)	
DEPARTMENT FOR APPROVAL OF)	D.T.C. 22-1
FISCAL YEAR (“FY”) 2022)	
EXPENDITURES, FY 2023)	
DEVELOPMENT GRANT AMOUNT,)	
FY INCENTIVE GRANT REGIONAL)	
PSAP THREE TO NINE)	
COMMUNITIES CATEGORY)	
PERCENTAGE, AND FY 2023)	
INCENTIVE GRANT REGIONAL)	
EMERGENCY COMMUNICATIONS)	
CENTER CATEGORY PERCENTAGE)	
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**OFFICE OF THE ATTORNEY GENERAL’S COMMENTS ON
THE STATE 911 DEPARTMENT’S PETITION**

Pursuant to the Notice of Public Hearing issued by the Department of Telecommunications and Cable (the “Department”) on March 17, 2022, the Office of the Attorney General (“AGO”) hereby submits written comments in the above-captioned docket. The AGO submits these documents to commend the Department’s continued oversight of the use of ratepayer funds from the Commonwealth’s Enhanced 911 (“E911”) Fund for the Executive Office of Public Safety and Security’s (“EOPSS”) upgrade of the Commonwealth of Massachusetts Interoperable Radio System (“CoMIRS”).

In docket D.T.C. 18-2, the State 911 Department (“State 911”) asked the Department to authorize a \$0.50 increase in the E911 Surcharge from \$1.00 to \$1.50 in order to support an upgrade to CoMIRS. *Petition of the State 911 Department for Approval of Fiscal Year 2018 Expenditures, Adjustment of the Enhance 911 Surcharge, Approval of Fiscal Year 2019 Development Grant Amount, and Approval of Fiscal Year 2019 Incentive Grant Regional PSAP*

Three to Nine Communities Category Amount, D.T.C. 18-2, at 1–2, 12–13 (2018). CoMIRS is the statewide radio system that provides communications, including E911 service, for public safety and transportation agencies throughout the Commonwealth. *Id.*, at 12–13. The Department held in that docket that State E911 funds could be used to fund CoMIRS, as CoMIRS enhances the State 911’s ability to “dispatch, transfer, or relay emergency 911 calls” amongst Public Safety Answering Points (“PSAP”) throughout Massachusetts. *Id.*, at 17–18. Accordingly, the Department held that State 911 could fund the CoMIRS projects out of the 911 fund, pursuant to G.L. c. 6A, § 18A. *Id.*, at 16. Additionally, the Department held that State E911’s proposed expenditures for CoMIRS in fiscal year 2018 were prudently incurred. *Id.*, at 15–20. The Department therefore took jurisdiction over the investigation and approval of the use of E911 funds for CoMIRS projects going forward, pursuant to its authority under G.L. c. 6A, § 18H(b).

The Department has previously approved dispatch-related costs incurred by the CoMIRS program to be paid out of the E911 Fund. *See Petition of the State 911 Department for Approval of Fiscal Year 2021 Expenditures, Fiscal Year 2022 Development Grant Amount and Fiscal Year 2022 Regional PSAP Three to Nine Communities Category Percentage*, D.T.C. 21-3, at 11–12 (2021); *Petition of the State 911 Department for Approval of Fiscal Year 202 Expenditures, Fiscal Year 2021 Development Amount*, D.T.C. 20-1, at 14 (2020). State 911 has maintained the importance of the CoMIRS upgrades to the accomplishing public safety goals and better communicate important 911 information to public safety officers. *See, e.g., Petition of the State 911 Department for Approval of Fiscal Year 2022 Expenditures, Approval of Fiscal Year 2023 Development Grant Amount, Approval of Fiscal Year 2023 Incentive Grant Regional PSAP Three to Nine Communities Category Percentage, and Approval of Fiscal Year 2023 Incentive*

Grant Regional Emergency Communications Center Category Percentage, D.T.C. 22-1, at 9–11 (“Petition”) (2022 petition); *Petition of the State 911 Department for Approval of Fiscal Year 2021 Expenditures, Approval of Fiscal Year 2022 Development Grant Amount and Approval of Fiscal Year 2022 Regional PSAP Three to Nine Communities Category Percentage*, D.T.C. 21-3, at 9 (2021 petition); *Petition of the State 911 Department for Approval of Fiscal Year 202 Expenditures, Fiscal Year 2021 Development Amount*, D.T.C. 20-1, at 9 (2020 petition); *Petition of the State 911 Department for Approval of Fiscal Year 2019 Expenditures, Approval of Fiscal Year 2020 Development Grant Amount, and Approval of Fiscal Year 2020 Incentive Grant RECC Category Amount*, D.T.C. 19-2, at 10–11 (2019 Petition); *Petition of the State 911 Department for Approval of Fiscal Year 2018 Expenditures, Adjustment of the Enhance 911 Surcharge, Approval of Fiscal Year 2019 Development Grant Amount, and Approval of Fiscal Year 2019 Incentive Grant Regional PSAP Three to Nine Communities Category Amount*, D.T.C. 18-2, at 14–15 (2018 petition). State 911 has previously stated that the “overhaul will take approximated five (5) years to complete.” 2018 Petition, at 15. *See also* 2019 Petition, at 11 (same); 2020 Petition, at 10 (same).

State 911 has maintained the importance of timely improvements to the radio infrastructure via the CoMIRS program, including the acquisition of additional spectrum of radio frequencies. *See, e.g.*, Att. D.T.C. 1-7a(2), D.T.C. 18-2, at 124 (2017 State Assessment and Key Findings). The importance of expanding the “critical public safety communication systems” like CoMIRS was among the stated reasons for State 911 to request an increase in the E911 surcharge from \$1.00 to \$1.50 in 2018. *See* 2018 Petition, at 3 (“the adjustment to the Enhanced 911 Surcharge . . . is requested to support the procurement of an interoperable, statewide radio system known as . . . CoMIRS”).

Nevertheless, the CoMIRS upgrades have suffered significant delays, delaying expenditures and extending various deadlines for bidders for the implementation of the CoMIRS+P25 system. *See* Petition, at 11 (projecting completion in late 2026). Overall, actual CoMIRS spending has been significantly less than expected. In FY2021, expenditures were almost \$34 million less than projected, reaching only just over 16% of the budgeted amount. *Id.*, Exh. A.

The AGO encourages the Department to carefully review the revenues of the CoMIRS project from the E911 Fund and determine whether the level of the current surcharge remains reasonable considering the project's delays and the fund's significant balance. *See* Petition, Ex. A (projecting a balance forward of more than \$220 million, at least \$20 million more than the previous fiscal year). The Department should fulfill its role as a "counterweight" to the State 911's authority to administer the E911 Fund, *see* D.T.C. 18-2, at 7, and exercise its authority under G.L. c 6A, § 18H(b) to scrutinize the revenues and expenditures of the fund "for the purpose of recalculating the surcharge." G.L. c 6A, § 18H(b). Financial hardship during the COVID-19 pandemic has affected ratepayers across the Commonwealth, and a reasonably calculated and justified surcharge that still properly funds communication improvements can put money back in ratepayers' pockets.

The AGO thanks the Department for this opportunity to provide comments on this important ratepayer and public safety issue and to participate in the above-captioned docket.

Respectfully submitted,

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ATTORNEY GENERAL

By: /s/ Jonathan F. Dinerstein
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Dated: May 11, 2022

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE**

**PETITION OF THE STATE 911
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D.T.C. 22-1

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing documents upon each person designated on the official service list compiled by the Secretary in this proceeding in accordance with the requirements of 207 C.M.R. 1.05(1). Dated at Boston this 11th day of May, 2022.

/s/ Jonathan F. Dinerstein
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